BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In The Matter of	)	
Billed Party Preference for 0+ InterLATA Calls	)	**CC Docket No. 92-77**

REPLY COMMENTS OF THE TELECOMMUNICATIONS RESELLERS ASSOCIATION

The Telecommunications Resellers Association ("TRA"), by its attorneys, hereby submits its reply to earlier-filed comments addressing the Further Notice of Proposed Rulemaking, FCC 94-117, (released June 6, 1994) in the captioned proceeding ("FNPRM"). Specifically, TRA agrees with those commenters who have urged the Commission to refrain from mandating a "billed party preference" ("BPP") system for "0+" operator-assisted interLATA calling.

I.

INTRODUCTION

TRA is an association created to foster and promote the interests of resale carriers engaged in the provision of domestic and inter-national telecommunications services. Employing the transmission, and often the switching, capabilities of underlying facilities-based carriers, the resale carriers comprising TRA create "virtual networks" to serve small and mid-sized businesses and residential customers, providing such customer with access to rates otherwise available only to much larger users. TRA members also provide their small businesses and residential customers with value-

added services and customer support functions which are generally not available to low volume users. TRA's members -- over 230 facilities and non-facilities-based resale carriers and their underlying service and product suppliers -- range from emerging, high-growth companies to well-established, publicly-traded corporations. Resale carriers serve hundreds of thousands of telecommunications customers, representing billions of minutes of long distance traffic annually. A relatively new market segment, non-facilities-based resale is the fastest growing segment of the long distance telecommunications industry. Populated by more than 1,000 carriers, the telecommunications resale industry generates revenues in the billions of dollars and represents roughly two percent of the long distance telecommunications market. And current forecasts are that this market share will more than double in the next 5 to 7 years.

TRA was chartered, among other things, to represent the views of its members before the Commission, other federal and state agencies and departments, legislative bodies and federal and state courts. The Association is filing comments here in furtherance of that directive.

TRA members have thrived in an interexchange telecommunications market characterized by intense competition and governed by customer choice. Accordingly, the benefits of BPP cited in the FNPRM have a superficial appeal to TRA. Certainly, prior Commission initiatives which have resulted in simplified calling procedures and more effective competition have drawn TRA's enthusiastic support. And it is hard to argue that, all things being equal, regulatory actions that are designed to focus the "competitive energies" of carriers on serving end users are not in the public interest. With respect to BPP, however, all things are not equal. TRA agrees with those commenters

who have shown that the staggering costs of implementing BPP far outweigh its limited benefits. TRA submits that the FNPRM has grossly understated the costs -- financial, competitive and otherwise -- and has significantly overstated the benefits of BPP. Not only is BPP unlikely to achieve the public interest goals cited by the FNPRM, but it's implementation will likely engender a host of new concerns. And adoption of BPP will do so at the expense of less costly and more effective alternatives.

II.

ARGUMENT

A. The Costs -- Financial, Competitive and Otherwise -- of Implementing BPP are Grossly Understated by the FNPRM

1. The Costs of Implementing and Administering BPP will be Significantly Higher that Anticipated by the FNPRM

The FNPRM acknowledges (at ¶20) that the costs of implementing and administering BPP would be staggering. Local exchange carriers ("LECs"), the FNPRM estimates, would incur in such implementation and administration nonrecurring costs of $1.1 billion and annual recurring expenses of $60 million, while operator service providers ("OSPs") would experience BPP-related cost increases of approximately $35 million per year. In short, implementation and administration of BPP would cost roughly $420 million a year according to the FNPRM.

This amount would of course be inflated by "overhead loadings in the neighborhood of 25%." FNPRM at ¶27. Moreover, this figure does not provide for a return on investment or the impact of inflation. Nor does it account for the additional costs associated with 14-digit screening -- "between three and fifteen million dollars per BOC" (FNPRM

at ¶71) -- the balloting required to implement BPP and the establishment and maintenance of the ongoing processes that would enable customers to change their presubscribed "0+" services carrier. And the FNPRM wholly ignores the costs of stranded plant, equipment and related facilities that OSPs would experience if all front-end operator functions on "0+" calls were transferred to the LECs.[1/] Factoring in these and other excluded items, the NYNEX Telephone Companies ("NYNEX") estimate (at 8) that the true cost of implementing and administering BPP would be at least $572 million, while the Competitive Telecommunications Association ("CompTel") calculates a BPP cost figure in excess of $607 million.

The Bell Atlantic telephone companies ("Bell Atlantic") highlight (at 12-13) other flaws in the FNPRM's cost calculations. Thus, as Bell Atlantic points out, the cost of implementing and administering BPP cited by the FNPRM do not include costs that would be incurred by non-Bell Operating Companies ("BOC") such as Cincinnati Bell Telephone Company ("CBT")[2/], Rochester Telephone Corporation ("RTC"), Southern New England Telephone Company ("SNET") and United Telephone Company ("United").[3/] Nor do the FNPRM's cost estimates include the costs that non-equal access exchange carriers would have to incur to provide BPP. And the FNPRM simply assumes, without record

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[1/] AT&T estimates (at 21) that the costs it would incur in transitioning to a BPP environment would range between $80 and $100 million.

[2/] CBT alone estimates (at 2-5) that the cost to it of implementing and administering BPP will be $16.8 million or 30% of its net income or 89% of its interstate operating income for 1993.

[3/] The United States Telephone Association ("USTA") estimates (at 3-9) that the costs to independent telephone companies ("ITCs") would be $328 million.

foundation, that the additional operator handling costs incurred by LECs as a result of BPP would be offset dollar-for-dollar by interexchange carrier ("IXC") savings and that the facilities-based IXCs would automatically pass through such savings to end users in the form of lower rates.

2. The Nonmonetary Costs Associated with BPP are Substantial

While not as precise, the nonmonetary costs associated with BPP are no less consequential than the dollar costs of BPP implementation and administration. For example, as CompTel emphasizes (at 14-16), BPP would raise substantial new barriers to entry into the interLATA "0+" market by small IXCs which lack the national network coverage and mass marketing capabilities necessary to compete successfully in a BPP environment. Not only would such entry barriers hinder new market entry, but they would undermine the competitive viability of current market participants, many of whom are small carriers who do not have large preexisting bases of "1+" customers that are likely to presubscribe to their "0+" services. Also on the competitive front, BPP would adversely impact the ability of competitive access providers ("CAPs") to compete for interLATA traffic by requiring virtually all "0+" traffic to be forwarded to LECs for routing. And adoption of BPP would allow LECs to stifle emerging intraLATA competition given that all operator traffic, not just interLATA operator traffic, would be routed to the LECs, who thereby would be in a position to process and carry the intraLATA calls.

The nonmonetary costs associated with BPP extend beyond competitive concerns. For example, implementation of BPP would significantly increase access times for completing "0+" calls. BPP

interpositions an LEC operator system between the caller and the IXC, requires a line information database ("LIDB") query to ascertain the caller's preferred carrier and necessitates a transfer of information from the LEC to the preselected IXC. US West estimates that these steps translate into access delays ranging from six to thirty seconds. And these additional set-up delays in turn translate into increased access costs for IXCs and consumers.

As AT&T (at 24) and CompTel (at 29-30) point out, BPP would further hinder, and often preclude, the deployment, and future development, of new "0+" service offerings. Among the services CompTel has shown are incompatible with BPP (primarily because in a BPP environment, OSPs would receive only the numeric information collected by the LEC from the caller) are voice recognition call processing technology for collect and third-party-number-billed calls; use of voice PINs on calling card calls; "0+" voice mail and message forwarding; personal speed dialing; "0+" access to information databases; and use of commercial credit cards to charge "0+" calls.

B. The FNPRM has Significantly Exaggerated the Benefits of BPP

If fully achievable, the public interest benefits that the FNRPM projects for BPP would be compelling. Unfortunately, TRA agrees with those commenters who have argued that the benefits cited by the FNRPM are significantly exaggerated. Initially, the FNRPM has grossly inflated consumer savings that would result from implementation of BPP. The FNRPM projects aggregate savings at $620 million per year -- $280 million achieved through avoidance of high-priced OSPs (at ¶ 11) and $340 million achieved through elimination of "0+" commissions (at ¶ 12). These figures are undermined by a host of factors.

First, the Commission reported to Congress two years ago that "virtually all of the OSPs whose rates the Bureau found appeared unjust and unreasonable have reduced their rates substantially."[4/] Moreover, the percentage of "0+" calls handled by aggregator-selected carriers has been steadily declining as customers, taking advantage of reforms adopted in and pursuant to, the Telephone Operator Consumer Services Protection Act ("TOCSIA"), have increased their use of access codes and "1-800" access vehicles to reach their preferred carrier; indeed, a recent NYNEX survey (at 3-5) found that two thirds of operator service calls were made on a "dial-around" basis" and that of these calls more than two thirds were completed using a "1-800" service such as that provided by many TRA members.[5/] Finally, it is by no means certain, as the FNPRM simply assumes, that state regulatory commissions will adopt BPP for intrastate interLATA calls, that operator-assisted calling will continue to grow a historical rates,[6/] that facilities-based IXCs will

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[4/] "Final Report of the FCC Pursuant to Telephone Operator Consumer Services Improvement Act of 1990," p.11 (Nov. 13, 1992). Continuing, the Commission noted that the "rate reductions amounted to as much as 36 percent in the price of one of the sample calls" and that "the revised rates no longer raised the concerns of unreasonableness that had prompted the Bureau to initiate these proceedings." Moreover, the Commission itself found that in 1991 91.8% of all IXC operator services call minutes (both intrastate and interstate) were handled by AT&T, MCI, Sprint or an LEC. Id. at Att. N, p. 17, Table 4.

[5/] A study commissioned by CompTel (at 33) found that 80% of all operator services and access code calls were being billed by the billed party's carrier of choice. BellSouth Telecommunications, Inc. ("BellSouth") cites (at 3-4) an American Public Communications Counsel study which found that between June 1993 and June 1994 more than 60% of interstate operator-assisted calls employed access codes and that the percentage of such calls was increasing dramatically.

[6/] Indeed, AT&T estimates (at 5) that in contrast with the annual growth rate of 4.3% projected by the FNPRM for the period 1991 through 1997, actual annual growth for operator services will total only 0.63%. And as AT&T points out, the years 1993 and 1994 have been characterized by negative growth.

pass through to end users cost savings realized from elimination of "0+" commissions and that aggregators (particularly hotels and motels) will not simply introduce new fees to compensate for lost OSP commissions. In short, the multitude of assumptions upon which the FNPRM's large projected savings are predicated are lacking any substantial foundation.

Nonmonetary benefits attributed by the FNPRM to BPP are also exaggerated. For example, while it is indisputable that BPP would "simplify calling card, collect, and third party billed calling" and "guarantee routing by the billed party's preferred carrier" (FNPRM at ¶ 9), customers have become increasingly comfortable with a multitude of means by which to reach their preferred carrier. In addition to "10XXX" dialing, "950-10XX" dialing and the "1-800" access mode used by TRA members are now commonplace and well-accepted in the marketplace. The on-going intense marketing by AT&T Corp. ("AT&T") of 1-800-CALL-ATT and by MCI Telecommunications Corp. ("MCI") of 1-800-COLLECT ensure that acceptance of these alternate access modes will continue to grow. Thus, the dialing simplification that the FNPRM attributes to BPP is far from essential.

Second, it is not at all clear that BPP would allow for more effective competition or prompt a greater focus on the end user. As noted above, "1-800" competition for calling card traffic is intense and focused exclusively on the end user. Moreover, as noted previously, BPP would raise entry barriers which smaller OSPs may find insurmountable and may well adversely impact the ability of competitive access providers ("CAPs") to compete for interLATA traffic.

Complicating these matters, BPP will simply not be available in many "0+" dialing circumstances and at many locations. Thus BPP

will not apply to intraLATA calls, calls charged to commercial credit cards, international calling cards or IXC calling cards that are not in the LIDB database or calls from nonequal access areas or from areas where the preferred carrier does not have a presence. And customers will not be able to tell in advance when and where and to which calls BPP will apply before calls are placed. Further, consumers will on occasion be compelled to deal with multiple operators in placing a single collect, bill-to-third number or person-to-person call. These concerns may well be a source of confusion and frustration for the public and negate any sense of convenience customers might otherwise derive from BPP. Indeed, as the FNPRM acknowledges (at ¶49), "different dialing rules for different locations would confuse callers and undermine the benefits of simplified operator service calling." And given that approximately three-quarters of all calls originate and terminate in the same LATA, these problems will persist as jurisdictional battles are waged with the States.

C. BPP is a Solution in Search of a Problem Sufficient to Justify its Associated Costs

To put it bluntly, BPP is a solution in search of a problem, or at least a problem of sufficient magnitude to justify is pricetag, as well as its attendant nonmonetary costs. Implementation and administration of BPP will cost in the billions of dollars, which costs will ultimately be borne by end users in the form of higher access charges. It carries with it the potential for inflicting competitive harm on small OSPs and CAPs. It will diminish service quality by increasing set-up times and will hinder the development and deployment of certain new service features. And it will likely be a source of

customer confusion and frustration in the near term and potentially over time.

While the objectives the FNPRM has identified for BPP are admirable, it is unlikely that they will be achieved by BPP. More consequentially, these benefits can and are being achieved through far less costly alternatives. As noted above, the percentage of "0+" calls handled by aggregator-selected carriers has been steadily declining. Instances of exorbitant pricing of operator services have been substantially reduced, if not eliminated. And customer awareness and acceptance of alternate access modes, such as "10XXX" dialing, "950-10XX" dialing and "1-800" services has increased dramatically.

III.

CONCLUSION

By reason of the foregoing, TRA urges the Commission to decline to adopt BPP and terminate this proceeding.

Respectfully submitted,

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